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FISCAL IMPACT REPORT

ORIGINAL DATE 1/26/07
 LAST UPDATED 2/17/07 HB 308/aHEC/aHFL#1

SPONSOR Lujan, B.

SHORT TITLE Tribal College Affordability Scholarships SB _____

ANALYST Dearing

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	*None	N/A	College Affordability Fund
	*Please see narrative		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Conflicts with: SB 355

Responses Received From

Higher Education Department (HED)

Indian Affairs Department (IAD)

SUMMARY

Synopsis of House Floor Amendment #1

Action on the House Floor amends House Bill 308/aHEC such that;

1. Strike House Education Committee Amendments 2, 3, 4, 5, 6 and 7.
2. On page 1, line 13, after the semicolon insert "ADJUSTING DISTRIBUTIONS TO THE COLLEGE AFFORDABILITY SCHOLARSHIP FUND;"
3. On page 5, line 21, after "fund" strike the remainder of the line and insert in lieu thereof "except".
4. On page 5, strike all of line 22 and on line 23, strike "scholarship fund" and after "section" strike the comma.

5. On page 5, strike line 24 and strike line 25 up to the period.
6. On page 6, line 2, after "created" insert "as a nonreverting fund".
7. On page 6, line 3, after "fund" strike the remainder of the line and on line 4, strike "section".
8. On page 6, line 4, after "specified" insert "distributions,".
9. On page 6, line 13, after "Until" insert "fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds two million dollars (\$2,000,000), an annual distribution of two million dollars (\$2,000,000) shall be made from the college affordability endowment fund to the college affordability scholarship fund. Thereafter, until".
10. On page 6, line 17, after "fund" strike the remainder of the line, strike all of lines 18 and 19 and insert in lieu thereof a period and "After the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), all of the income from investment of the fund shall be distributed to the college affordability scholarship fund."".

The House Floor amendments make substantial changes to the proposed legislation. Under these amendments, the language remains in the College Affordability Scholarship act to maintain the endowment-building retained earnings framework of 50% to build principal, 50% available for scholarships in any year. However, there is a new provision providing that, until the endowment fund distribution (the 50% disbursement of earned interest) to the scholarship fund meets or exceeds \$2 million, an annual distribution of \$2 million shall be made to the scholarship fund from the endowment by default.

*The effective date of House Bill 308/aHEC as amended by floor action is July 1, 2007. Clarification is necessary to determine whether the nonrecurring, \$2 million appropriation recommended for the scholarship fund in House Bill 2 will substitute for the default distribution mentioned above, for FY08. If the entire endowment is invested with the State Investment Council (average 8% return) at or prior to the beginning of FY08, interest earnings should substantially exceed \$2 million during the year, making any default distribution unnecessary in that year.

Synopsis of HEC Amendment

The House Education Committee substantially amends House Bill 308 such that 100% of the interest in the fund is available for scholarships in any given year. As amended, the college affordability endowment fund shall become a non-reverting fund. Annual interest from investment of the endowment fund will flow into the scholarship fund for expenditure.

There are significant fiscal implications to this proposed statutory change of fund mechanics. Under the change, there will be a 100% increase in available scholarships the first year, **however, without additional appropriations, the endowment fund would no longer keep pace with inflation, nor provide for growth in the number of scholarships available in out-years. Due to significant average inflation in the cost of Higher Education, the program**

would lose purchasing power each year, resulting in either fewer grants, or less valuable grants.

This proposed change to the mechanics of the fund represent would significantly alter future scholarship capacity. The original language specified that 50% of earned interest would be retained in the fund, increasing the fund's balance by 50% of interest in each year. Existing statute provides for this framework to remain in place until the fund reaches \$250 million.

Under the existing statute, the endowment fund could provide \$20 million in annual scholarships when it reaches its intended terminal value.

The attached table, appendix A. shows the net benefit to maintaining the fund's current retained earnings framework. The beginning FY08 values in the table include an LFC recommended \$50 million special nonrecurring appropriation for the College Affordability Act in FY08.

Over a 30-year period, maintenance of the current statute would provide eighty-two million (\$82,000,000) in excess scholarship grants than the framework proposed in House Bill 308/aHEC. Additionally, the endowment value would have increased to two-hundred, fifty-four million (\$253,767,000) midway through the 23rd year.

The current framework provides net future benefit exceeding two-hundred, thirty-six million (\$236,000,000) above the HB308/aHEC proposal.

Alternatives to the proposal in HB308/aHEC include allocating 4%, or \$2 million of \$50 million recommended special appropriation to the *scholarship fund* to increase the number of scholarships available in FY08.

Synopsis of Original Bill

House Bill 308 carries no appropriation from the General Fund. If enacted, the bill would amend Sections 21-21L-1 through 21-21L-8 NMSA 1978, the College Affordability Act, to extend eligibility for need-based scholarships to students attending the State's Tribal colleges. The proposed legislation amends the Act to re-define the duration of eligibility for recipients. House Bill 308 adds or amends the Act's language to define eligible student, scholarship and Tribal college.

FISCAL IMPLICATIONS

House Bill 308 carries no appropriation from the General Fund. The bill amends or adds several passages within the College Affordability Act.

Under the current legislation, students at Tribal colleges are ineligible for scholarship awards from the fund. The proposed amendments would allow the NM Department of Higher Education to allocate funds from the College Affordability Fund to eligible Tribal colleges for distribution as scholarships. Expanding eligibility to include Tribal students would have no net impact on the fund, as the distribution mechanism would remain at a maximum of 50 percent of annual interest earnings applied toward scholarships. Under the existing and proposed versions, 50 percent of annual interest earnings are retained to increase the fund principle.

*If enacted, the aggregate annual award funding available statewide would remain at half of earned interest, however, there would be more students eligible for individual grants. The allocation of funding distributed to public higher education institutions would incorporate Tribal colleges' new eligibility.

*The proposed amendment strikes language stipulating only 8 consecutive semesters of eligibility for recipients. There would be no additional costs of extending the term of eligibility past 8 consecutive semesters, however, there would be fewer total grants available to new recipients each year if the duration is extended. As currently proposed, the change to duration of eligibility would have no affect over the next three years since the program's first grant awards were in Fall 2006. As proposed, eligible recipients would no longer have to be in a *degree program*.

*The proposed amendment leaves language intact within the Act stipulating a *maximum* award amount of \$1000 each semester; \$2000 annually. Both the number of total awards, and the *minimum* dollar amount of each award are not provided in either the existing Act, nor in the proposed version. Setting these levels will remain a department decision through its rule promulgation process. Because of this, the possibility exists that increased eligibility might place demand pressure on the department to increase the total available awards, necessitating a reduction in the dollar amount of awards.

Many significant elements of administration of the Act would be left to rulemaking by the Higher Education department. The amended version would remove the 4-year cap on duration of eligibility, as well as a necessity that students remain in degree seeking programs. Because of this there is significant concern that rules created by the department could have a negative impact on recipients' persistence to graduation. These two items have the potential to reduce the service capacity of the fund in both total numbers and effectiveness.

SIGNIFICANT ISSUES

Enacted during the 2005 regular legislative session and endowed through a \$49 million appropriation in Laws, 2006 Chapter 109, the College Affordability fund was invested in June 2006 with the local government investment pool with the State Treasurer's office. HED estimates the fund may provide scholarship grants of up to \$1000 each semester; \$2000 annually, to as many as 625 students demonstrating financial need within its first year. Provisions for distribution of this scholarship money to students have been developed within the department, however these have not yet been compiled within New Mexico Administrative Code (NMAC).

The current language in the College Affordability Act restricts the scholarship recipients to eight consecutive semesters. The Higher Education department states that this does not allow part-time students to receive the scholarship long enough to graduate and that the issue is particularly problematic for part-time students at community colleges wishing to continue through to a bachelor's degree.

Proposed amendments to the Act would keep intact language that terminates the awards when students fail to achieve satisfactory academic progress, withdrawal, or fail to remain at half-time. HED will continue to make the determination for academic progress criteria through the promulgation of rules.

ADMINISTRATIVE IMPLICATIONS

Many significant elements of administration of the Act are left to rulemaking by the Higher Education department.

CONFLICT

House Bill 308 conflicts with SB 355.

Senate Bill 355 amends Sections 21-21L-1 through 21-21L-7 NMSA 1978, the College Affordability Act. Senate Bill 355 defines tribal colleges by name as follows.

D. "tribal college" means:

- (1) the southwestern Indian polytechnic institute;
- (2) the Crownpoint institute of technology;
- (3) the institute of American Indian arts; and
- (4) the New Mexico campus of Dineh college."

Senate Bill 355 makes other technical adjustments to change language to make the Act parallel with the statutory change from the Commission on Higher Education (CHE), to the Higher Education Department (HED), and to incorporate its own proposed definitions.

TECHNICAL ISSUES

House Bill 308 carries no appropriation from the General Fund, however, as proposed, the title suggests otherwise.

The proposed Enactment of House Bill 308 would make the following changes to the provisions of Sections 21-21L-1 through 21-21L-8 NMSA 1978.

Clauses throughout House Bill 308 change language to make the Act parallel with the statutory change from the Commission on Higher Education (CHE), to the Higher Education Department (HED), and to incorporate new proposed definitions.

Section 21-21L-3 (b) defining “returning adult” is stricken.

Section 21-21L-3 (c) defining “student” is stricken.

Clauses in Section 21-21L-3 (b), (c) and (d); add definitions that define eligible student, scholarship and Tribal college

New Section 21-21L-3 (b); new section defining “eligible student” is added. Creates a change from previously used *semester* reference to “any time later than *120 days* following high-school graduation or acceptance of general educational development certificate;” includes New Mexico resident in criteria.

Clause 21-21L-4 (a); requiring an eligible student be a resident of New Mexico for the purpose of tuition payment is stricken.

*Clause 21-21L-4 (b); amended to remove necessity of enrollment in degree program as criteria.

*Clauses in 21-21L-5 (d) and (e); add tribal colleges to list of institutions making and administrating awards.

*Clauses in Section 21-21L-6 amended to strike maximum duration of eligibility of 8 consecutive semesters.

Clauses in Section 21-21L-8 (a) and (b); add minor linguistic changes.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Sections 21-21L-1 through 21-21L-8 NMSA 1978, the College Affordability Act would remain in statute in their current form.

ATTACHMENT

PD/sb:csd

**Investment Growth
8.0%**

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1 Available for Investment, House Bill 308	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000
2 Available for scholarship, House Bill 308	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000
3										
4										
5 Available for Investment Status Quo	\$ 102,960,000	\$ 107,078,400	\$ 111,361,536	\$ 115,815,997	\$ 120,448,637	\$ 125,266,583	\$ 130,277,246	\$ 135,488,336	\$ 140,907,869	\$ 146,544,184
6 Available for Scholarship Status Quo	\$ 3,960,000	\$ 4,118,400	\$ 4,283,136	\$ 4,454,461	\$ 4,632,640	\$ 4,817,945	\$ 5,010,663	\$ 5,211,090	\$ 5,419,533	\$ 5,636,315
7										
8 Diff. (Existing law -Proposed)	\$ (3,960,000)	\$ (3,801,600)	\$ (3,636,864)	\$ (3,465,539)	\$ (3,287,360)	\$ (3,102,055)	\$ (2,909,337)	\$ (2,708,910)	\$ (2,500,467)	\$ (2,283,685)
9										
10										
11 Available for Investment, House Bill 308	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000
12 Available for scholarship, House Bill 308	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000
13										
14 Available for Investment Status Quo	\$ 152,405,952	\$ 158,502,190	\$ 164,842,277	\$ 171,435,968	\$ 178,293,407	\$ 185,425,143	\$ 192,842,149	\$ 200,555,835	\$ 208,578,068	\$ 216,921,191
15 Available for Scholarship Status Quo	\$ 5,861,767	\$ 6,096,238	\$ 6,340,088	\$ 6,593,691	\$ 6,857,439	\$ 7,131,736	\$ 7,417,006	\$ 7,713,686	\$ 8,022,233	\$ 8,343,123
16										
17 Diff. (Existing law -Proposed)	\$ (2,058,233)	\$ (1,823,762)	\$ (1,579,912)	\$ (1,326,309)	\$ (1,062,561)	\$ (788,264)	\$ (502,994)	\$ (206,314)	\$ 102,233	\$ 423,123
18										
19										
20 Avail. for Investment, House Bill 308	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000	\$ 99,000,000
21 Avail. for scholarship, House Bill 308	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000	\$ 7,920,000
22										
23 Available for Investment Status Quo	\$ 225,598,039	\$ 234,621,960	\$ 244,006,839	\$ 263,527,386	\$ 284,609,577	\$ 307,378,343	\$ 331,968,610	\$ 358,526,099	\$ 387,208,187	\$ 418,184,842
24 Available for Scholarship Status Quo	\$ 8,676,848	\$ 9,023,922	\$ 9,384,878	\$ 19,520,547	\$ 21,082,191	\$ 22,768,766	\$ 24,590,267	\$ 26,557,489	\$ 28,682,088	\$ 30,976,655
25										
26 Diff. (Existing law -Proposed)	\$ 756,848	\$ 1,103,922	\$ 1,464,878	\$ 11,600,547	\$ 13,162,191	\$ 14,848,766	\$ 16,670,267	\$ 18,637,489	\$ 20,762,088	\$ 23,056,655
27										
28										
29										
30 A 30-yr Excess with Current Statute										
31 Excess endowment value										
32 with existing framework										
33 midway between 2030-31										
34										
35										
36 A excess scholarship funding available under current statutory framework over 30-year horizon										

100% of interest would be available in years 2030-31 under the current statutory framework. The endowment will have reached intended terminal value of \$250 million.